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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,037	06/15/2007	Antonio Guerra	13877/20201	5826
26646 7590 02/05/2010 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
WEDDLE, ALEXANDER MARION				
ART UNIT		PAPER NUMBER		
1792				
MAIL DATE		DELIVERY MODE		
02/05/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Supplemental  
Notice of Allowability**

**Application No.**

10/591,037

**Examiner**

ALEXANDER WEDDLE

**Applicant(s)**

GUERRA ET AL.

**Art Unit**

1792

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Attorney tel. call on 02/01/10 indicating Claims 14 and 15 omitted from NOA of 01/25/10.
2. ☒ The allowed claim(s) is/are 1-5, 14 and 15.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/ALEXANDER WEDDLE/  
Examiner, Art Unit 1792

/Michael Kornakov/  
Supervisory Patent Examiner, Art Unit 1792

**DETAILED ACTION**

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jocelyn Ram on January 13, 2009.

The first notice of allowance mistakenly requested cancellation of Claims 6-9, 11-13, and **14-15**.

The application has been amended as follows:

Cancel Claims 6-9 and 11-13.

***Reasons for Allowance***

2. The following is an examiner's statement of reasons for allowance:

In light of Applicant's amendments, Claims 1-5 and 14-15 are allowed as patentably distinct over the closest prior art of record. The closest prior art of record is Bolton et al. (US 7,335,399) and Aoyama et al. (US 5,498,670)

Regarding Claim 1, Bolton et al. (US'399) teach a method of painting a substrate with an emulsion paint to simulate wood grain, comprising the steps of applying an opaque layer ("base coat") to a substrate and applying a pigmented emulsion paint over

the opaque layer (Abstract). US'399 teaches applying the pigmented emulsion paint in a semi-opaque layer, painting lightly and/ or sparingly onto the substrate in an amount sufficient to replicate a wood color, to provide darkening color to texture recesses in the substrate, and not to obscure the color of the underlying coat (col. 8, lines 42-49; col. 8, line 64 - col. 9, line 11; col. 7, lines 6-11). The colors of the opaque and the semi-opaque layers are selected so that they are of a corresponding color, i.e., should be compatibly selected or "relate to each other," so as to provide a brilliance of color and for faithful reproduction of the desired wood coloration (col. 9, lines 22-29). US'399 teach that the opaque layer is made of an aqueous pigmented primer, which should comprise *styrene-free* acrylic binder ("crosslinkable acrylic polymer") (col. 5, lines 1-8).

US'399 is silent as to the particle shape or size distribution. Aoyama et al. (US'670) teach a method of forming an emulsion paint for producing a suede, leather-like, or velvet-like appearance with spherical particles with an average particle diameter of 1-100 microns, which may be produced with a broad or with a narrow particle size distribution (col. 11, lines 10-40). US'670 does not teach or fairly suggest modifying US'399 for simulating wood grain with US'670 for producing suede textures.

No other prior art that anticipates or suggests fairly the instant claims has been located as of the date of this office action. Therefore, Claim 1 is allowed over the prior art of record. Claims 2-5 and 14-15 are allowed as depending from the allowed independent claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER WEDDLE whose telephone number is (571) 270-5346. The examiner can normally be reached on Monday-Thursday, 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Kornakov can be reached on (571)272-1303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. W./  
Examiner, Art Unit 1792  
/Michael Kornakov/

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Supervisory Patent Examiner, Art Unit 1792